

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAR 25 1997

Mr. Paul Bailey
Director, Health and Environmental Affairs
American Petroleum Institute
1220 L Street, Northwest
Washington, D.C. 20005-4070

RE: Promulgation of the Amendments to the Definition of Solid Waste (60 FR 57747)

Dear Mr. Bailey:

I am writing in response to your January 10, 1997 letter requesting EPA to accelerate the promulgation of the amendments involving the definition of solid waste regulations for petroleum refineries (60 FR 57747). As you know, the amendments were jointly proposed with the listing determination on November 20, 1995 and were thus originally scheduled to be finalized on October 31, 1996 under terms of the consent decree for the listing determination between the Environmental Protection Agency (EPA) and the Environmental Defense Fund (EDF). Based on a recent deadline extension negotiated with EDF, however, the listing determination and the amendments are now scheduled to be promulgated in the final rulemaking on April 30, 1998.

Although it may appear a simple matter to decouple and separately promulgate the definition of solid waste aspects of this proposal, I believe that in fact there are still some difficult policy decisions that remain to be made based on the comments received on the proposal. Since the close of the comment period we have continued to make progress in responding to the comments received, some strongly challenging the proposed amendments. The Agency must ensure that we fully respond to all comments, and that our final decision is technically sound and legally defensible.

Additionally, we have recently determined that the Agency needs to include additional technical analyses supporting the exemption of oil-bearing secondary materials returned to the coking process in the upcoming April 30, 1997 Notice of Data Availability (NODA). The Agency also believes it is a more efficient use of Agency resources to finalize both the proposed

Faxback 14074

recycling amendments and the listing determination concurrently. Therefore, because of these reasons, the Agency cannot, at this time, separate the amendments and promulgate them on a more accelerated schedule than the one already established for the combined listing schedule.

We plan to inform the EPA regions (and the states) that the Office of Solid Waste is committed to this rulemaking addressing the recycling of petroleum refining residues and that the delay in a final rule should not be interpreted as a reluctance on the part of the Agency to address these recycling amendments in the final petroleum refining listing rule.

If you would like to discuss this matter further, please contact me at (703) 308-8895 or have your staff contact William F. (Rick) Brandes of my staff at (703) 308-8890.

Sincerely,

Elizabeth A. Cotsworth, Acting Director
Office of Solid Waste